HOUSE BILL No. 1242

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-1.1-6.1; IC 6-1.1; IC 6-2.3; IC 6-2.5; IC 6-3; IC 6-3.1; IC 6-5.5-2-1; IC 6-6; IC 22-12-6-5; IC 27-1-18-2.

Synopsis: Business tax matters. Provides that various business tax incentives, deductions, credits, and refunds: (1) expire December 31, 2009; and (2) shall be reviewed by the legislative council or a committee designated by the council. Requires the legislative council or a committee designated by the council to review the expiration of business tax incentives, deductions, credits, and refunds during the interim preceding the interim during which the incentive, deduction, credit, or refund is set to expire. Makes conforming changes. Provides that the adjusted gross income of a corporation that is derived from sources within Indiana includes the apportioned part of the business income of each unitary business in which the corporation cooperates as a member of a unitary group. Defines the terms "unitary business" and "unitary group".

Effective: July 1, 2008; January 1, 2009; July 1, 2009.

Pelath, Fry, Dvorak

January 14, 2008, read first time and referred to Committee on Small Business and Economic Development.

Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1242

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-1.1-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6.1. (a) As used in this section, "business tax incentive" means any tax credit, deduction, refund, or other incentive that is:**

(1) set to expire; and

(2) required to be reviewed by the council or a committee designated by the council under this section.

(b) For each business tax incentive that is set to expire in a calendar year, the council or a committee designated by the council shall do the following:

(1) Conduct a review of the business tax incentive during the interim period between the regular legislative sessions of the calendar year. The review must include consideration of the influence of the business tax incentive on the following issues:

(A) Job creation.

(B) Actual or anticipated economic impact.

(C) Minority employment opportunities.

(D) Diversification of the workforce in a manner that reflects the demographics of Indiana.

(E) State and local revenues, including property taxes.

(2) Make a recommendation to the general assembly concerning extension of the business tax incentive.

(c) The council or the committee designated by the council shall make the recommendation required under subsection (b)(2) before November 1 of the calendar year in which the business tax incentive is set to expire.

SECTION 2. IC 6-1.1-8.2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 3. IC 6-1.1-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. (a) Property which is owned by a domestic corporation of this state is exempt from property taxation if:

(1) the corporation owns a water system or waterworks;

(2) the corporation is, pursuant to a contract, supplying its entire output of water at wholesale rates to a city or town of this state; and

(3) the city or town which receives the water owns at least ninety-five percent (95%) of the corporation's capital stock.

(b) For purposes of this section, stock is preferred stock and not capital stock if:

(1) fixed dividends are payable to the stock owner at a rate not to exceed six percent (6%) per year; and

(2) the stock owner has no further right to participate in the profits of the corporation.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 4. IC 6-1.1-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) For purposes of this section, "industrial waste control facility" means personal property which is:

(1) included either as a part of or an adjunct to a privately owned manufacturing or industrial plant or coal mining operation; and

(2) used predominantly to:

(A) prevent, control, reduce, or eliminate pollution of a stream or a public body of water located within or adjoining this state by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, or disposing of waste or contaminants generated by the plant; or

(B) meet state or federal reclamation standards for a coal mining operation.

The term includes personal property that is under construction or in the process of installation and that will be used for the purposes described in this subsection when placed in service. The term also includes spare parts held exclusively for installation in or as part of personal property that qualifies for the exemption under this section.

(b) An industrial waste control facility is exempt from property taxation if it is not used in the production of property for sale.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 5. IC 6-1.1-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) The owner of an industrial waste control facility who wishes to obtain the exemption provided in section 9 of this chapter shall file an exemption claim with the assessor of the township in which the property is located when he files his annual personal property return. The claim shall describe and state the assessed value of the property for which an exemption is claimed.

(b) The owner shall, by registered or certified mail, forward a copy of the exemption claim to the department of environmental management. The department shall acknowledge its receipt of the claim.

(c) The department of environmental management may investigate any claim. The department may also determine if the property for which the exemption is claimed is being utilized as an industrial waste control facility. Within one hundred twenty (120) days after a claim is mailed to the department, the department may certify its written determination to the township assessor with whom the claim was filed.

(d) The determination of the department remains in effect:

(1) as long as the owner owns the property and uses the property as an industrial waste control facility; or

(2) for five (5) years;

whichever is less. In addition, during the five (5) years after the

department's determination the owner of the property must notify the township assessor and the department in writing if any of the property on which the department's determination was based is disposed of or removed from service as an industrial waste control facility.

(e) The department may revoke a determination if the department finds that the property is not predominantly used as an industrial waste control facility.

(f) The township assessor, in accord with the determination of the department, shall allow or deny in whole or in part each exemption claim. However, if the owner provides the assessor with proof that a copy of the claim has been mailed to the department, and if the department has not certified a determination to the assessor within one hundred twenty (120) days after the claim has been mailed to the department, the assessor shall allow the total exemption claimed by the owner.

(g) The assessor shall reduce the assessed value of the owner's personal property for the year for which an exemption is claimed by the amount of exemption allowed.

(h) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 6. IC 6-1.1-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. **(a)** A determination by the department of environmental management under section 10 of this chapter may be appealed by the property owner to the circuit court of the county in which the property is located. The court shall try the appeal without a jury. Either party may appeal the circuit court's decision in the same manner that other civil cases may be appealed.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 7. IC 6-1.1-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) Personal property is exempt from property taxation if:

(1) it is part of a stationary or unlicensed mobile air pollution control system of a private manufacturing, fabricating, assembling, extracting, mining, processing, generating, refining, or other industrial facility;

(2) it is not primarily used in the production of property for sale;

(3) it is employed predominantly in the operation of the air pollution control system;

(4) the air pollution control system is designed and used for the improvement of public health and welfare by the prevention or elimination of air contamination caused by industrial waste or contaminants;

(5) a sanitary treatment or elimination service for the waste or contaminants is not provided by public authorities; and

(6) it is acquired for the purpose of complying with any state, local, or federal environmental quality statutes, regulations, or standards.

(b) The property that is exempt under this section includes the following personal property:

(1) Personal property that is under construction or in the process of installation and that will be used for the purposes described in subsection (a) when placed in service.

(2) Spare parts held exclusively for installation in or as part of personal property that qualifies for the exemption under this section.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 8. IC 6-1.1-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) The owner of personal property which is part of a stationary or unlicensed mobile air pollution control system who wishes to obtain the exemption provided in section 12 of this chapter shall claim the exemption on his annual personal property return which he files with the assessor of the township in which the property is located. On the return, the owner shall describe and state the assessed value of the property for which the exemption is claimed.

(b) The township assessor shall review the exemption claim, and he shall allow or deny it in whole or in part. In making his decision, the township assessor shall consider the requirements stated in section 12 of this chapter.

(c) The township assessor shall reduce the assessed value of the owner's personal property for the year for which the exemption is claimed by the amount of exemption allowed.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee

designated by the council under IC 2-5-1.1-6.1.

SECTION 9. IC 6-1.1-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 14. **(a)** The action taken by a township assessor on an exemption claim filed under section 10 or section 13 of this chapter shall be treated as an assessment of personal property. Thus, the assessor's action is subject to all the provisions of this article pertaining to notice, review, or appeal of personal property assessments.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 10. IC 6-1.1-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15. (a) The acquisition and improvement of land for use by the public as an airport and the maintenance of commercial passenger aircraft is a municipal purpose regardless of whether the airport or maintenance facility is owned or operated by a municipality. The owner of any airport located in this state, who holds a valid and current public airport certificate issued by the Indiana department of transportation, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes. A person maintaining commercial passenger aircraft in a county having a population of more than two hundred thousand (200,000) but less than four hundred thousand (400,000) may claim an exemption for commercial passenger aircraft not subject to the aircraft excise tax under IC 6-6-6.5 that is being assessed under this article, if it is located in the county only for the purposes of maintenance.

(b) The exemption provided by this section is noncumulative and applies only to property that would not otherwise be exempt. Nothing contained in this section applies to or affects any other tax exemption provided by law.

(c) As used in this section, "land used for public airport purposes" includes the following:

(1) That part of airport land used for the taking off or landing of aircraft, taxiways, runway and taxiway lighting, access roads, auto and aircraft parking areas, and all buildings providing basic facilities for the traveling public.

(2) Real property owned by the airport owner and used directly for airport operation and maintenance purposes.

(3) Real property used in providing for the shelter, storage, or care of aircraft, including hangars.

(4) Housing for weather and signaling equipment, navigational aids, radios, or other electronic equipment.

The term does not include land areas used solely for purposes unrelated to aviation.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 11. IC 6-1.1-10-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 15.5. (a) As used in this section, "airport development zone" means an airport development zone designated under IC 8-22-3.5-5.

(b) As used in this section, "allocated tax proceeds" refers to property taxes allocated under IC 8-22-3.5-9.

(c) As used in this section, "commission" has the meaning set forth in IC 8-22-3.5-2.

(d) As used in this section, "qualified airport development project" has the meaning set forth in IC 8-22-3.5-3.

(e) Before a person maintaining commercial passenger aircraft that is not subject to the aircraft excise tax under IC 6-6-6.5 may claim an exemption from property taxation for the commercial passenger aircraft, the commission must adopt a resolution authorizing the exemption for the commercial passenger aircraft.

(f) After the commission adopts a resolution described in subsection (e), a person maintaining a commercial passenger aircraft that is not subject to the aircraft excise tax under IC 6-6-6.5 may claim an exemption from property taxation for the commercial passenger aircraft if the following conditions exist when the commission adopts the resolution:

(1) The person is:

(A) a tenant or subtenant of any portion of the qualified airport development project; and

(B) a current user of all or any portion of the qualified airport development project.

(2) For purposes of maintenance, the aircraft will be located in the airport development zone.

(3) If bonds have been issued, either:

(A) the pledge of allocated tax proceeds to the payment of any bonds issued under IC 8-22-3-18.1 to finance any portion of the costs of the qualified airport development project has been discharged; or

(B) any bonds to which allocated tax proceeds were pledged

have been paid in full in accordance with the documents under which the bonds were issued.

If this subdivision applies, the person may not claim the exemption for a period longer than the original term of the bonds.

(g) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 12. IC 6-1.1-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 19. **(a)** Tangible property is exempt from property taxation if it is:

(1) owned by a corporation which has established a public library under Indiana law; and

(2) used exclusively for public library purposes.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 13. IC 6-1.1-10-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 29. (a) As used in this section, "manufacturer" or "processor" means a person that performs an operation or continuous series of operations on raw materials, goods, or other personal property to alter the raw materials, goods, or other personal property into a new or changed state or form. The operation may be performed by hand, machinery, or a chemical process directed or controlled by an individual. The terms include a person that:

(1) dries or prepares grain for storage or delivery; or

(2) publishes books or other printed materials.

(b) Personal property owned by a manufacturer or processor is exempt from property taxation if the owner is able to show by adequate records that the property:

(1) is stored and remains in its original package in an in-state warehouse for the purpose of shipment, without further processing, to an out-of-state destination;

(2) is inventory (as defined in IC 6-1.1-3-11) that will be used in an operation or a continuous series of operations to alter the personal property into a new or changed state or form and the resulting personal property will be shipped, or will be incorporated into personal property that will be shipped, to an out-of-state destination; or

(3) consists of books or other printed materials that are stored at

an in-state commercial printer's facility for the purpose of shipment, without further processing, to an out-of-state destination.

(c) Personal property that is manufactured in Indiana and that would be exempt under subsection (b)(1), except that it is not stored in its original package, is exempt from property taxation if the owner can establish in accordance with exempt inventory procedures, regulations, and rules of the department of local government finance that:

(1) the property is ready for shipment without additional manufacturing or processing, except for packaging; and

(2) either:

(A) the property will be damaged or have its value impaired if it is stored in its original package; or

(B) the final packaging of finished inventory items is not practical until receipt of a final customer order because fulfillment of the customer order requires the accumulation of a number of distinct finished inventory items into a single shipping package.

(d) A manufacturer or processor that possesses personal property owned by another person may claim an exemption under subsection (b) or (c) if:

(1) the manufacturer or processor includes the property on the manufacturer's or processor's personal property tax return; and

(2) the manufacturer or processor is able to show that the owner of the personal property would otherwise have qualified for an exemption under subsection (b)(1), (b)(3), or (c).

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 14. IC 6-1.1-10-29.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 29.3. **(a)** Personal property shipped into Indiana is exempt from property taxation if the owner or possessor is able to show by adequate records that the property:

(1) is stored in an in-state warehouse for the purpose of transshipment to an out-of-state destination; and

(2) is ready for transshipment without additional manufacturing or processing, except repackaging.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee

designated by the council under IC 2-5-1.1-6.1.

SECTION 15. IC 6-1.1-10-31.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31.4. **(a)** A chassis for a truck (as defined in IC 9-13-2-188(a)) is exempt from personal property tax if the chassis is:

(1) owned by a nonresident motor vehicle dealer that is not a motor vehicle manufacturer;

(2) in the possession of a resident under an agreement requiring the resident to ship a completed truck to the owner; and

(3) not held by the resident for resale.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 16. IC 6-1.1-10-31.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31.5. **(a)** A passenger motor vehicle (as defined in IC 9-13-2-123) is exempt from personal property tax if the vehicle is:

(1) owned by a nonresident motor vehicle dealer that is not a motor vehicle manufacturer;

(2) operational and in compliance with IC 9-19-2 through IC 9-19-6, IC 9-19-8, IC 9-19-12, IC 9-19-14 through IC 9-19-15, IC 9-19-18 through IC 9-19-19, and IC 9-21-7;

(3) in the possession of a resident under an agreement requiring the resident to ship the vehicle to the owner; and

(4) not held by the resident for resale.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 17. IC 6-1.1-10-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 43. (a) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.

(b) As used in this section, "dealer" has the meaning set forth in IC 6-1.1-3-11.

(c) Inventory that is:

(1) owned by an out-of-state dealer; and

(2) located in Indiana for sale on the wholesale automobile market;

is exempt from property taxation.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 18. IC 6-1.1-10.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 15. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 19. IC 6-1.1-12-38, AS AMENDED BY P.L.154-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11; minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11.

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement, the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under IC 15-3-3-12 and the pesticide storage rules adopted by the state chemist under IC 15-3-3.5-11. The statement and certification must be filed before June 11 of the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, the county auditor shall allow the deduction.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 20. IC 6-1.1-12-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 40. (a) This

section applies only to real property that is located in an enterprise zone established in a county containing a consolidated city.

(b) The owner of real property described in subsection (a) is entitled to a deduction under this section if:

(1) an obsolescence depreciation adjustment for either functional obsolescence or economic obsolescence was allowed for the property for property taxes assessed in the year preceding the year in which the owner purchased the property;

(2) the property owner submits an application requesting the deduction to the fiscal body of the county in which the property is located; and

(3) the fiscal body of the county approves the deduction.

(c) If a county fiscal body approves a deduction under this section, it must notify the county auditor of the approval of the deduction.

(d) A deduction may be claimed under this section for not more than four (4) years. The amount of the deduction under this section equals:

(1) the amount of the obsolescence depreciation adjustment for either functional obsolescence or economic obsolescence that was allowed for the property for property taxes assessed in the year preceding the year in which the owner purchased the property; multiplied by

(2) the following percentages:

(A) One hundred percent (100%), for property taxes assessed in the year in which the owner purchased the property.

(B) Seventy-five percent (75%), for property taxes assessed in the year after the year in which the owner purchased the property.

(C) Fifty percent (50%), for property taxes assessed in the second year after the year in which the owner purchased the property.

(D) Twenty-five percent (25%), for property taxes assessed in the third year after the year in which the owner purchased the property.

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 21. IC 6-1.1-12-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 42. (a) As used in this section, "assessed value of inventory" means the assessed value determined after the application of any deductions or adjustments that apply by statute or rule to the assessment of inventory, other than the

deduction established in subsection (c).

(b) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.

(c) A taxpayer is entitled to a deduction from assessed value equal to one hundred percent (100%) of the taxpayer's assessed value of inventory beginning with assessments made in 2006 for property taxes first due and payable in 2007.

(d) A taxpayer is not required to file an application to qualify for the deduction established by this section.

(e) The department of local government finance shall incorporate the deduction established by this section in the personal property return form to be used each year for filing under IC 6-1.1-3-7 or IC 6-1.1-3-7.5 to permit the taxpayer to enter the deduction on the form. If a taxpayer fails to enter the deduction on the form, the township assessor shall:

(1) determine the amount of the deduction; and

(2) within the period established in IC 6-1.1-16-1, issue a notice of assessment to the taxpayer that reflects the application of the deduction to the inventory assessment.

(f) The deduction established by this section must be applied to any inventory assessment made by:

(1) an assessing official;

(2) a county property tax assessment board of appeals; or

(3) the department of local government finance.

(g) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 22. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.137-2007, SECTION 3, AND AS AMENDED BY P.L.219-2007, SECTION 31, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a

form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), and subject to subsection (i) *and section 15 of this chapter,* an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the

number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i) *and section 15 of this chapter,* the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%

5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%

9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by

following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a *criminal* violation under *IC 13, including* IC 13-7-13-3 (repealed) *or* IC 13-7-13-4 (repealed); ~~*or IC 13-30-6;*~~ or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by

(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

(j) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 23. IC 6-1.1-12.1-4.8, AS AMENDED BY P.L.219-2007, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.8. (a) A property owner that is an applicant

for a deduction under this section must provide a statement of benefits to the designating body.

(b) If the designating body requires information from the property owner for the designating body's use in deciding whether to designate an economic revitalization area, the property owner must provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the property owner must submit the completed statement of benefits form to the designating body before the occupation of the eligible vacant building for which the property owner desires to claim a deduction.

(c) The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the eligible vacant building that the property owner or a tenant of the property owner will occupy.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the property owner or the tenant as a result of the occupation of the eligible vacant building, and an estimate of the annual salaries of those individuals.

(3) Information regarding efforts by the owner or a previous owner to sell, lease, or rent the eligible vacant building during the period the eligible vacant building was unoccupied.

(4) Information regarding the amount for which the eligible vacant building was offered for sale, lease, or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied.

(d) With the approval of the designating body, the statement of benefits may be incorporated in a designation application. A statement of benefits is a public record that may be inspected and copied under IC 5-14-3.

(e) The designating body must review the statement of benefits required by subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, after the designating body has made the following findings:

(1) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(2) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be

retained can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(3) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed occupation of the eligible vacant building.

(4) Whether the occupation of the eligible vacant building will increase the tax base and assist in the rehabilitation of the economic revitalization area.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction under this section unless the findings required by this subsection are made in the affirmative.

(f) Except as otherwise provided in this section, the owner of an eligible vacant building located in an economic revitalization area is entitled to a deduction from the assessed value of the building if the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes. The property owner is entitled to the deduction:

(1) for the first year in which the property owner or a tenant of the property owner occupies the eligible vacant building and uses it for commercial or industrial purposes; and

(2) for subsequent years determined under subsection (g).

(g) The designating body shall determine the number of years for which a property owner is entitled to a deduction under this section. However, subject to section 15 of this chapter, the deduction may not be allowed for more than two (2) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by a resolution adopted not more than sixty (60) days after the designating body receives a copy of the property owner's deduction application from the county auditor.

A certified copy of a resolution under subdivision (2) shall be sent to the county auditor, who shall make the deduction as provided in section 5.3 of this chapter. A determination concerning the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by using the procedure under subdivision (2).

(h) Except as provided in section 2(i)(5) of this chapter and subsection (k), and subject to section 15 of this chapter, the amount of the deduction the property owner is entitled to receive under this section for a particular year equals the product of:

(1) the assessed value of the building or part of the building that is occupied by the property owner or a tenant of the property owner; multiplied by

(2) the percentage set forth in the table in subsection (i).

(i) The percentage to be used in calculating the deduction under subsection (h) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%

(j) The amount of the deduction determined under subsection (h) shall be adjusted in accordance with this subsection in the following circumstances:

(1) If a general reassessment of real property occurs within the period of the deduction, the amount of the assessed value determined under subsection (h)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved and results in a reduction of the assessed value of the property, the amount of a deduction under this section shall be adjusted to reflect the percentage decrease that resulted from the appeal.

(k) The maximum amount of a deduction under this section may not exceed the lesser of:

(1) the annual amount for which the eligible vacant building was offered for lease or rent by the owner or a previous owner during the period the eligible vacant building was unoccupied; or

(2) an amount, as determined by the designating body in its discretion, that is equal to the annual amount for which similar buildings in the county or contiguous counties were leased or rented or offered for lease or rent during the period the eligible vacant building was unoccupied.

(l) The department of local government finance may adopt rules under IC 4-22-2 to implement this section.

(m) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 24. IC 6-1.1-12.2-13 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 13. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 25. IC 6-1.1-12.3-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 18. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 26. IC 6-1.1-12.4-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 15. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 27. IC 6-1.1-20.7-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 14. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 28. IC 6-1.1-20.8-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 5. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 29. IC 6-1.1-40-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 15. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 30. IC 6-1.1-42-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 35. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 31. IC 6-1.1-44-8 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 32. IC 6-1.1-45-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 13. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 33. IC 6-2.3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) This section applies to the sale of utility services by the owner or operator of any of the following facilities:

(1) A commercial hotel, motel, inn, or campground.

(2) A park for mobile homes, manufactured homes, trailers, or recreational vehicles.

(3) Marinas.

(b) Gross receipts derived from the sale of utility services by an owner or operator described in subsection (a) to a user of a facility described in subsection (a) are exempt from the utility receipts tax.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 34. IC 6-2.3-4-6, AS ADDED BY P.L.16-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. **(a)** Gross receipts derived from the sale of utility services between members of a controlled group of corporations or an affiliated group are exempt from the utility receipts tax if:

(1) the seller is the producer of the utility service and the purchaser is the end user; and

(2) the seller and the purchaser exist at the same location or adjacent locations.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 35. IC 6-2.3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Each

taxable year a taxpayer is entitled to deduct from the taxpayer's gross receipts an amount equal to the product of:

(1) one thousand dollars ($1,000); multiplied by

(2) a fraction.

The numerator of the fraction is the number of days in the taxpayer's taxable year for which the taxpayer is subject to the utility receipts tax, and the denominator of the fraction is the number of days in the taxpayer's taxable year.

(b) If a taxpayer files quarterly gross receipts tax returns the taxpayer may use a proportionate part of the deduction provided by subsection (a) for each return filed.

(c) A taxpayer is entitled to only one (1) deduction under this section each taxable year, regardless of the number of partners or participants in the organization.

(d) An affiliated group that files a consolidated return under IC 6-2.3-6-5 is entitled to only one (1) deduction under this section on that consolidated return.

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 36. IC 6-2.3-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. **(a)** Each taxable year, a taxpayer that reports the taxpayer's gross receipts on an accrual basis is entitled to deduct bad debts from the taxpayer's gross receipts in the same manner provided in IC 6-2.5-6-9.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 37. IC 6-2.3-5-3, AS AMENDED BY P.L.137-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) Except as provided in subsection (b), if:

(1) for federal income tax purposes a taxpayer is allowed a depreciation deduction for a particular taxable year with respect to a resource recovery system; and

(2) the resource recovery system processes solid waste or hazardous waste;

the taxpayer is entitled to a deduction from the taxpayer's gross receipts for that same taxable year. The amount of the deduction equals the total depreciation deductions that the taxpayer is allowed, with respect to the

system, for that taxable year under Sections 167 and 179 of the Internal Revenue Code.

(b) A taxpayer is not entitled to the deduction provided by this section for a particular taxable year with respect to a resource recovery system that is directly used to dispose of hazardous waste if during that taxable year the taxpayer:

(1) is convicted of any criminal violation under IC 13, including IC 13-7-13-3 (before its repeal) or IC 13-7-13-4 (before its repeal); or

(2) is subject to an order or consent decree based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 38. IC 6-2.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) Each taxable year a taxpayer is entitled to deduct from the taxpayer's gross receipts the amount paid by the taxpayer during that taxable year for the return of an empty container of the type customarily returned by the buyer of the contents for reuse as a container.

(b) If a taxpayer is required to file quarterly gross receipts tax returns, the taxpayer may claim the deduction provided by this section on those returns.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 39. IC 6-2.3-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. **(a)** A taxpayer is entitled to a deduction for retail sales of bottled water or gas to the extent that the purchase of the water or gas was treated as a retail transaction under IC 6-2.3-3-6.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 40. IC 6-2.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. **(a)** Transactions involving animals, feed, seed, plants, fertilizer,

insecticides, fungicides, and other tangible personal property are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for his direct use in the direct production of food and food ingredients or commodities for sale or for further use in the production of food and food ingredients or commodities for sale; and

(2) the person acquiring the property is occupationally engaged in the production of food and food ingredients or commodities which he sells for human or animal consumption or uses for further food and food ingredient or commodity production.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 41. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property is occupationally engaged in the production of food or commodities which he sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 42. IC 6-2.5-5-3, AS AMENDED BY P.L.211-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) For purposes of this section:

(1) the retreading of tires shall be treated as the processing of tangible personal property; and

(2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

(c) The exemption provided in subsection (b) does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 43. IC 6-2.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for ~~his~~ **the person's** direct use in the direct production of the machinery, tools, or equipment described in section 2 or 3 of this chapter.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 44. IC 6-2.5-5-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 45. IC 6-2.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 6. **(a)**

Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for incorporation as a material part of other tangible personal property which the purchaser manufactures, assembles, refines, or processes for sale in ~~his~~ **the person's** business. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 46. IC 6-2.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the person acquiring the property is in the construction business;

(2) the person acquiring the property acquires it for incorporation as a material or integral part of a public street or of a public water, sewage, or other utility service;

(3) the public street or public utility service into which the property is to be incorporated is required under a subdivision plat, approved and accepted by the appropriate Indiana political subdivision; and

(4) the public street or public utility is to be publicly maintained after its completion.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 47. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect

at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only after June 30, 2008. A transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the lease revenue derived from leasing the aircraft is equal to or greater than:

(1) ten percent (10%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than one million dollars ($1,000,000); or

(2) seven and five-tenths percent (7.5%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was at least one million dollars ($1,000,000).

(f) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 48. IC 6-2.5-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as production plant or power production expenses, according to the uniform system of accounts

which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is:

(A) a public utility that furnishes or sells electrical energy, steam, or steam heat in a retail transaction described in IC 6-2.5-4-5; or

(B) a power subsidiary (as defined in IC 6-2.5-4-5(a)) that furnishes or sells electrical energy, steam, or steam heat to a public utility described in clause (A).

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 49. IC 6-2.5-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is classified as production plant, storage plant, production expenses, or underground storage expenses according to the uniform system of accounts, which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is a public utility that furnishes or sells natural or artificial gas in a retail transaction described in IC 6-2.5-4-5.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 50. IC 6-2.5-5-12, AS AMENDED BY P.L.88-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **(a)** Sec. 12. Transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the property is classified as source of supply plant and expenses, the pumping plant and expenses, or water treatment plant and expenses according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; and

(2) the person acquiring the property is a public utility that furnishes or sells water in a retail transaction described in IC 6-2.5-4-5.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 51. IC 6-2.5-5-12.5, AS ADDED BY P.L.88-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12.5. (a) As used in this section, "collection plant and expenses" includes the following:

(1) Expenditures for collection plant, which include the following:

(A) Land and land rights.

(B) Structures and improvements.

(C) Power generation equipment.

(D) Collection sewers and special collecting structures.

(E) Receiving wells.

(F) Pumping equipment.

(G) Transportation equipment.

(H) Other collection plant expenditures.

(2) Expenditures for collection expenses, which include the following:

(A) Operation supervision and engineering.

(B) Purchased power or fuel for power production.

(C) Chemicals.

(D) Materials and supplies.

(E) Maintenance supervision and engineering.

(F) Rental of real property or equipment.

(G) Maintenance of power generation equipment.

(H) Maintenance of structures and improvements.

(I) Maintenance of transportation equipment.

(J) Maintenance of collection plant equipment.

(b) As used in this section, "public utility" means a public utility (as defined in IC 8-1-2-1(a)) or any person that contracts with a municipality to operate, manage, or control any plant or equipment owned by the municipality for the collection, treatment, or processing of wastewater.

(c) As used in this section, "system pumping plant and expenses" includes the following:

(1) Expenditures for pumping plant, which include the following:

(A) Land and land rights.

(B) Structures and improvements.

(C) Boiler plant equipment.

(D) Other power production equipment.

(E) Steam pumping equipment.

(F) Electric pumping equipment.

(G) Diesel pumping equipment.
(H) Hydraulic pumping equipment.
(I) Other pumping equipment.

(2) Expenditures for pumping expenses, which include the following:

(A) Operation supervision and engineering.
(B) Fuel for power production.
(C) Power production labor and expenses.
(D) Fuel or power purchased for pumping.
(E) Pumping labor and expenses.
(F) Miscellaneous expenses.
(G) Rents.
(H) Maintenance supervision and engineering.
(I) Maintenance of power production equipment.
(J) Maintenance of pumping equipment.

(d) As used in this section, "treatment and disposal plant and expenses" includes the following:

(1) Expenditures for treatment and disposal plant, which include the following:

(A) Land and land rights.
(B) Structures and improvements.
(C) Power generation equipment.
(D) Pumping equipment.
(E) Flow measuring devices and installations.
(F) Reuse meters and meter installations.
(G) Reuse transmission and distribution systems.
(H) Treatment and disposal equipment.
(I) Sewers and sewer lines.
(J) Transportation equipment.

(2) Expenditures for treatment and disposal expenses, which include the following:

(A) Operation supervision and engineering.
(B) Purchased wastewater treatment.
(C) Sludge removal expenses.
(D) Purchased power or fuel for power production.
(E) Chemicals.
(F) Materials and supplies.
(G) Maintenance supervision and engineering.
(H) Rental of real property or equipment.
(I) Maintenance of power generation equipment.
(J) Maintenance of structures and improvements.
(K) Maintenance of transportation equipment.

(L) Maintenance of treatment and disposal plant equipment.

(e) Transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the property is classified as collection plant and expenses, treatment and disposal plant and expenses, or system pumping plant and expenses; and

(2) the person acquiring the property is a public utility that collects, treats, or processes wastewater.

(f) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 52. IC 6-2.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is:

(A) classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; or

(B) mobile telecommunications switching office equipment, radio or microwave transmitting or receiving equipment, including, without limitation, towers, antennae, and property that perform a function similar to the function performed by any of the property described in clause (A); and

(2) the person acquiring the property furnishes or sells intrastate telecommunication service in a retail transaction described in IC 6-2.5-4-6.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 53. IC 6-2.5-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 27. **(a)** Transactions involving tangible personal property and services are exempt from the state gross retail tax, if the person acquiring the property or service directly uses or consumes it in providing public transportation for persons or property.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 54. IC 6-2.5-5-27.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 27.5. (a) For purposes of this section, "rolling stock" means rail transportation equipment, including locomotives, box cars, flatbed cars, hopper cars, tank cars, and freight cars of any type or class.

(b) Transactions involving the following tangible personal property are exempt from the gross retail tax:

(1) Rolling stock that is purchased or leased by a person.

(2) All spare, replacement, and rebuilding parts or accessories, components, materials, or supplies, including lubricants and fuels, for rolling stock described in subdivision (1).

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 55. IC 6-2.5-5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 30. **(a)** Sales of tangible personal property are exempt from the state gross retail tax if:

(1) the property constitutes, is incorporated into, or is consumed in the operation of, a device, facility, or structure predominantly used and acquired for the purpose of complying with any state, local, or federal environmental quality statutes, regulations, or standards; and

(2) the person acquiring the property is engaged in the business of manufacturing, processing, refining, mining, or agriculture.

The portion of the sales price of tangible personal property which is exempt from state gross retail and use taxes under this section equals the product of: (A) the total sales price; multiplied by (B) one hundred percent (100%).

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 56. IC 6-2.5-5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 31. (a) As used in this section, "free distribution newspaper" means any community newspaper, shopping paper, shoppers' consumer paper, pennysaver, shopping guide, town crier, dollar stretcher, or other similar publication which:

(1) is distributed to the public on a community-wide basis, free of

charge;

(2) is published at stated intervals of at least once a month;

(3) has continuity as to title and general nature of content from issue to issue;

(4) does not constitute a book, either singly or when successive issues are put together;

(5) contains advertisements from numerous unrelated advertisers in each issue;

(6) contains news of general or community interest, community notices, or editorial commentary by different authors, in each issue; and

(7) is not owned by, or under the control of, the owners or lessees of a shopping center, a merchant's association, or a business that sells property or services (other than advertising) whose advertisements for their sales of property or services constitute the predominant advertising in the publication.

(b) The term "free distribution newspaper" does not include mail order catalogs or other catalogs, advertising fliers, travel brochures, house organs, theater programs, telephone directories, restaurant guides, shopping center advertising sheets, and similar publications.

(c) Transactions involving manufacturing machinery, tools and equipment, and other tangible personal property are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use, or for his direct consumption as a material to be consumed, in the direct production or publication of a free distribution newspaper, or for incorporation as a material part of a free distribution newspaper published by that person.

(d) Transactions involving a sale of a free distribution newspaper, or of printing services performed in publishing a free distribution newspaper, are exempt from the state gross retail tax if the purchaser is the publisher of the free distribution newspaper.

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 57. IC 6-2.5-5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 36. **(a)** Transactions involving tangible personal property acquired by a person that has contracted with a commercial printer for printing are exempt from the state gross retail tax, if the property is acquired for use at the commercial printer's premises and the commercial printer could have acquired the property exempt from the state gross retail tax and use tax.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 58. IC 6-2.5-5-37, AS AMENDED BY P.L.193-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 37. **(a)** Transactions involving tangible personal property are exempt from the state gross retail tax, if the tangible personal property:

(1) is leased, owned, or operated by a professional racing team; and

(2) comprises any part of a professional motor racing vehicle, excluding tires and accessories.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 59. IC 6-2.5-5-40, AS ADDED BY P.L.193-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 40. (a) As used in this chapter, "research and development activities" does not include any of the following:

(1) Efficiency surveys.

(2) Management studies.

(3) Consumer surveys.

(4) Economic surveys.

(5) Advertising or promotions.

(6) Research in connection with literary, historical, or similar projects.

(7) Testing for purposes of quality control.

(b) As used in this section, "research and development equipment" means tangible personal property that:

(1) consists of or is a combination of:

(A) laboratory equipment;

(B) computers;

(C) computer software;

(D) telecommunications equipment; or

(E) testing equipment;

(2) has not previously been used in Indiana for any purpose; and

(3) is acquired by the purchaser for the purpose of research and development activities devoted directly to experimental or laboratory research and development for:

(A) new products;

(B) new uses of existing products; or

(C) improving or testing existing products.

(c) A retail transaction:

(1) involving research and development equipment; and

(2) occurring after June 30, 2007;

is exempt from the state gross retail tax.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 60. IC 6-2.5-5-41, AS ADDED BY P.L.137-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 41. (a) As used in this section, "motion picture production" means:

(1) a feature length film, including a short feature and an independent or studio production, or a documentary; or

(2) a television series, program, or feature;

produced for any combination of theatrical or television viewing, or as a television pilot. The term includes preproduction, production, and postproduction work. However, the term does not include a motion picture that is obscene (under the standard set forth in IC 35-49-2-1) or television coverage of news or athletic events.

(b) Except as provided in subsection (d), a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a motion picture production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a motion picture production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, crew members, or any other individual involved in a motion picture production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, crew members, or any other individual involved in a motion picture production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property acquired for direct use in a motion picture production in Indiana if the transaction occurs after December 31, 2008.

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 61. IC 6-2.5-5-42, AS ADDED BY P.L.211-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 42. (a) A transaction involving an aircraft is exempt from the state gross retail tax if:

(1) the purchaser is a nonresident;

(2) the purchaser transports the aircraft to a destination outside Indiana within thirty (30) days after:

(A) accepting delivery of the aircraft; or

(B) a repair, refurbishment, or remanufacture of the aircraft is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

(3) the aircraft will be:

(A) titled or registered in another state or country; or

(B) based (as defined in IC 6-6-6.5-1(m)) in that state or country, if a state or country does not require a title or registration for aircraft; and

(4) the aircraft will not be titled or registered in Indiana.

(b) A purchaser must claim an exemption under subsection (a) by submitting to the seller an affidavit affirming the elements required by subsection (a). In addition, the affidavit must identify the state or country in which the aircraft will be titled, registered, or based.

(c) Within sixty (60) days after:

(1) a purchaser who claims an exemption under this section accepts delivery of the aircraft; or

(2) a repair, refurbishment, or remanufacture of the aircraft subject to an exemption under this section is completed, if the aircraft remains in Indiana after the purchaser accepts delivery for the purpose of accomplishing the repair, refurbishment, or remanufacture of the aircraft;

the purchaser shall provide the seller with a copy of the purchaser's title or registration of the aircraft outside Indiana. If the state or country in which the aircraft is based does not require the aircraft to be titled or registered, the purchaser shall provide the seller with a copy of the aircraft registration application for the aircraft as filed with the Federal Aviation Administration.

(d) The department shall prescribe the form of the affidavit required by subsection (b).

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 62. IC 6-2.5-6-9, AS AMENDED BY P.L.162-2006, SECTION 23, AND IS AMENDED BY P.L.184-2006, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

(1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;

(2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and

(3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (d)(6), include the amount collected as part of the retail merchant's gross retail income from retail transactions for the particular reporting period in which the retail merchant makes the collection.

(c) This subsection applies only to retail transactions occurring after ~~*June 30, 2007.*~~ *December 31, 2006*. As used in this subsection, "affiliated group" means any combination of the following:

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%). ~~*or a relationship described in Section 267(b)(11) of the Internal Revenue Code.*~~

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under the rules adopted by the department.

The right to a deduction under this section is not assignable to an

individual or entity that is not part of the same affiliated group as the assignor.

(d) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

(1) The deduction does not include interest.

(2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:

(A) financing charges or interest;

(B) sales or use taxes charged on the purchase price;

(C) uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;

(D) expenses incurred in attempting to collect any debt; and

(E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for the refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price

of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

(e) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 63. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) Eighty-three hundredths percent (0.83%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars ($60,000).

(2) Six-tenths percent (0.6%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars ($60,000); and

(B) did not exceed six hundred thousand dollars ($600,000).

(3) Three-tenths percent (0.3%), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars ($600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 64. IC 6-2.5-6-11, AS AMENDED BY P.L.181-2006, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 11. **(a)** A retail merchant who extends assistance to a heating assistance program administered under IC 4-4-33 may deduct from the retail merchant's state gross retail and use tax payment an amount equal to all or part of the aggregate assistance extended by the retail merchant to a heating assistance program administered under IC 4-4-33 during the reporting period for which the state gross retail and use tax payment is made.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 65. IC 6-2.5-6-16, AS ADDED BY P.L.193-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 16. (a) As used in this section, "research and development equipment" has the meaning set forth in IC 6-2.5-5-40.

(b) A person is entitled to a refund equal to fifty percent (50%) of the gross retail tax paid by the person under this article in a retail transaction occurring after June 30, 2005, and before July 1, 2007, to acquire research and development equipment.

(c) To receive the refund provided by this section, a person must claim the refund under IC 6-8.1-9 in the manner prescribed by the department.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 66. IC 6-3-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 24. The term "sales" means all gross receipts of the taxpayer not allocated under ~~IC 6-3-2-2(g)~~ **IC 6-3-2-2(h)** through ~~IC 6-3-2-2(k),~~ **IC 6-3-2-2(j)** other than compensation (as defined in section 23 of this chapter).

SECTION 67. IC 6-3-1-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 35. (a) "Unitary business" means business activities or operations that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership, a limited liability company, or a trust.**

(b) Unity is presumed whenever there is unity of ownership,

operation, and use evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction among entities that are members of the unitary group, as described in subsection (a). However, the absence of these centralized activities does not necessarily evidence a nonunitary business.

(c) Unity of ownership, when a corporation is involved, does not exist unless that corporation is a member of a group of two (2) or more business entities and more than fifty percent (50%) of the voting stock of each member of the group is directly or indirectly owned by:

(1) a common owner or common owners, either corporate or noncorporate; or

(2) one (1) or more of the member corporations of the group.

(d) The term does not include the business of a financial institution (as defined in IC 6-5.5-1-3).

SECTION 68. IC 6-3-1-36 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 36. "Unitary group" means a group of entities that is engaged in a unitary business.**

SECTION 69. IC 6-3-2-1.5, AS AMENDED BY P.L.180-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1.5. (a) As used in this section, "qualified area" means:

(1) a military base (as defined in IC 36-7-30-1(c));

(2) a military base reuse area established under IC 36-7-30;

(3) the part of an economic development area established under IC 36-7-14.5-12.5 that is or formerly was a military base (as defined in IC 36-7-30-1(c));

(4) a military base recovery site designated under IC 6-3.1-11.5; or

(5) a qualified military base enhancement area established under IC 36-7-34.

(b) Except as provided in subsection (e), a tax at the rate of five percent (5%) of adjusted gross income is imposed on that part of the adjusted gross income of a corporation that is derived from sources within a qualified area if the corporation locates all or part of its operations in a qualified area during the taxable year, as determined under subsection (g). The tax rate under this section applies to the taxable year in which the corporation locates its operations in the qualified area and to the next succeeding four (4) taxable years.

(c) In the case of a corporation that locates all or part of its

operations in a qualified military base enhancement area established under IC 36-7-34-4(1), the tax rate imposed under this section applies to the corporation only if the corporation meets at least one (1) of the following criteria:

(1) The corporation is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The corporation is a United States Department of Defense contractor.

(3) The corporation and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the corporation and the United States Department of Defense.

(d) In the case of a business that uses the services or commodities in a qualified military base enhancement area established under IC 36-7-34-4(2), the business must satisfy at least one (1) of the following criteria:

(1) The business is a participant in the technology transfer program conducted by the qualified military base (as defined in IC 36-7-34-3).

(2) The business and the qualified military base have a mutually beneficial relationship evidenced by a memorandum of understanding between the business and the qualified military base (as defined in IC 36-7-34-3).

(e) A taxpayer is not entitled to the tax rate described in subsection (b) to the extent that the taxpayer substantially reduces or ceases its operations at another location in Indiana in order to relocate its operations within the qualified area, unless:

(1) the taxpayer had existing operations in the qualified area; and

(2) the operations relocated to the qualified area are an expansion of the taxpayer's operations in the qualified area.

(f) A determination under subsection (e) that a taxpayer is not entitled to the tax rate provided by this section as a result of a substantial reduction or cessation of operations applies to the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

(g) The department of state revenue:

(1) shall adopt rules under IC 4-22-2 to establish a procedure for determining the part of a corporation's adjusted gross income that was derived from sources within a qualified area; and

(2) may adopt other rules that the department considers necessary

for the implementation of this chapter.

(h) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 70. IC 6-3-2-2, AS AMENDED BY P.L.162-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

(1) income from real or tangible personal property located in this state;

(2) income from doing business in this state;

(3) income from a trade or profession conducted in this state;

(4) compensation for labor or services rendered within this state; and

(5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property if the receipt from the intangible is attributable to Indiana under section 2.2 of this chapter.

In the case of nonbusiness income described in subsection ~~(g),~~ **(h),** only so much of such income as is allocated to this state under the provisions of subsections ~~(h)~~ **(i)** through ~~(k)~~ **(l)** shall be deemed to be derived from sources within Indiana. In the case of business income, only so much of such income as is apportioned to this state under ~~the provision of subsection~~ **subsections** (b) **and (r)** shall be deemed to be derived from sources within ~~the state of~~ Indiana. In the case of compensation of a team member (as defined in section 2.7 of this chapter) only the portion of income determined to be Indiana income under section 2.7 of this chapter is considered derived from sources within Indiana. In the case of a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code, only so much of the income as is apportioned to Indiana under subsection ~~(r)~~ **(q)** is considered derived from sources within Indiana.

(b) Except as provided in subsection ~~(l),~~ **(m),** if business income of a ~~corporation or a~~ nonresident person is derived from sources within ~~the state of~~ Indiana and from sources without the state of Indiana, the business income derived from sources within this state shall be determined by multiplying:

(1) the business income derived from sources both within and without ~~the state of~~ Indiana; by

(2) the ~~following:~~ **apportionment factor determined under subsection (c).**

(c) The apportionment factor determined under this subsection is one (1) of the following:

(1) For all taxable years that begin after December 31, 2006, and before January 1, 2008, a fraction. The:

(A) numerator of the fraction is the sum of the property factor **determined under subsection (d)** plus the payroll factor **determined under subsection (e)** plus the product of the sales factor **determined under subsection (f)** multiplied by three (3); and

(B) denominator of the fraction is five (5).

(2) For all taxable years that begin after December 31, 2007, and before January 1, 2009, a fraction. The:

(A) numerator of the fraction is the property factor **determined under subsection (d)** plus the payroll factor **determined under subsection (e)** plus the product of the sales factor **determined under subsection (f)** multiplied by four and sixty-seven hundredths (4.67); and

(B) denominator of the fraction is six and sixty-seven hundredths (6.67).

(3) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor **determined under subsection (d)** plus the payroll factor **determined under subsection (e)** plus the product of the sales factor **determined under subsection (f)** multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(4) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor **determined under subsection (d)** plus the payroll factor **determined under subsection (e)** plus the product of the sales factor **determined under subsection (f)** multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(5) For all taxable years beginning after December 31, 2010, the sales factor **determined under subsection (f).**

~~(c)~~ **(d)** The property factor is a fraction, the numerator of which is

the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

~~(d)~~ **(e)** The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in this state if:

(1) the individual's service is performed entirely within the state;

(2) the individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state; or

(3) some of the service is performed in this state and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of this state.

~~(e)~~ **(f)** The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from

intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of the sale, sales of tangible personal property are in this state if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in this state and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

~~(f)~~ **(g)** Sales, other than receipts from intangible property covered by subsection ~~(c)~~ **(f)** and sales of tangible personal property, are in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

~~(g)~~ **(h)** Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections ~~(h)~~ **(i)** through ~~(k).~~ **(l).**

~~(h)(1)~~ **(i)(1)** Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocated to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year, and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer,

tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

~~(i)(1)~~ **(j)(1)** Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

~~(j)~~ **(k)** Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

~~(k)(1)~~ **(l)(1)** Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the taxpayer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

~~(l)~~ **(m)** If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) for a taxable year beginning before January 1, 2011, the exclusion of ~~any~~ one (1) or more of the **apportionment** factors,

except the sales factor;

(3) the inclusion of one (1) or more additional factors which will fairly represent the taxpayer's income derived from sources within the state of Indiana; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

~~(m)~~ **(n)** In the case of two (2) or more organizations, trades, or businesses owned or controlled directly or indirectly by the same interests, the department shall distribute, apportion, or allocate the income derived from sources within the state of Indiana between and among those organizations, trades, or businesses in order to fairly reflect and report the income derived from sources within the state of Indiana by various taxpayers.

~~(n)~~ **(o)** For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

~~(o)~~ **(p)** Notwithstanding subsections ~~(l)~~ **(m)** and ~~(m),~~ **(n), and except as provided in section 20 of this chapter,** the department may not ~~under any circumstances,~~ require that income, deductions, and credits attributable to: ~~a taxpayer and another entity be reported in a combined income tax return for any taxable year, if the other entity is:~~

(1) a foreign corporation; or

(2) a corporation that is classified as a foreign operating corporation for the taxable year by section 2.4 of this chapter;

be used to determine the business income of a unitary group that conducts a unitary business in Indiana.

~~(p) Notwithstanding subsections (l) and (m), the department may not require that income, deductions, and credits attributable to a taxpayer and another entity not described in subsection (o)(1) or (o)(2) be reported in a combined income tax return for any taxable year, unless the department is unable to fairly reflect the taxpayer's adjusted gross income for the taxable year through use of other powers granted to the department by subsections (l) and (m).~~

~~(q) Notwithstanding subsections (o) and (p), one (1) or more taxpayers may petition the department under subsection (l) for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and~~

~~filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.~~

~~(r)~~ **(q)** This subsection applies to a corporation that is a life insurance company (as defined in Section 816(a) of the Internal Revenue Code) or an insurance company that is subject to tax under Section 831 of the Internal Revenue Code. The corporation's adjusted gross income that is derived from sources within Indiana is determined by multiplying the corporation's adjusted gross income by a fraction:

(1) the numerator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks in the state; and

(2) the denominator of which is the direct premiums and annuity considerations received during the taxable year for insurance upon property or risks everywhere.

The term "direct premiums and annuity considerations" means the gross premiums received from direct business as reported in the corporation's annual statement filed with the department of insurance.

(r) Except as provided in subsection (m), a corporation's business income that is derived from sources within Indiana in each taxable year is the amount determined under STEP FOUR of the following formula:

STEP ONE: For each unitary business in which the corporation cooperates as a member of a unitary group for the taxable year, multiply the following:

(A) Subject to subsection (p), the business income of the unitary group with respect to the unitary business for the taxable year.

(B) The apportionment factor for the corporation with respect to the unitary business for the taxable year as determined under subsection (s).

STEP TWO: Determine the sum of the STEP ONE results.

STEP THREE: Multiply the following:

(A) The business income of the corporation for the taxable year:

(i) that is not attributable to a unitary business in which the corporation cooperates as a member of the unitary group; and

(ii) that is derived from sources both within Indiana and outside Indiana.

(B) The apportionment factor determined under subsection (c) for the corporation for the taxable year.

STEP FOUR: Add:

(A) the STEP TWO result;

(B) the STEP THREE result; and

(C) the business income of the corporation:

(i) that is not accounted for in STEP TWO or THREE of this formula; and

(ii) that is derived only from sources within Indiana.

(s) The apportionment factor determined under this subsection is one (1) of the following:

(1) For all taxable years beginning after December 31, 2008, and before January 1, 2010, a fraction. The:

(A) numerator of the fraction is the property factor determined under subsection (t), plus the payroll factor determined under subsection (u), plus the product of the sales factor determined under subsection (v), multiplied by eight (8); and

(B) denominator of the fraction is ten (10).

(2) For all taxable years beginning after December 31, 2009, and before January 1, 2011, a fraction. The:

(A) numerator of the fraction is the property factor determined under subsection (t), plus the payroll factor determined under subsection (u), plus the product of the sales factor determined under subsection (v), multiplied by eighteen (18); and

(B) denominator of the fraction is twenty (20).

(3) For all taxable years beginning after December 31, 2010, the sales factor determined under subsection (v).

(t) The property factor for a unitary group is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in Indiana during the taxable year and the denominator of which is the average value of all the unitary group's real and tangible personal property owned or rented and used during the taxable year. However, with respect to a foreign corporation, the denominator does not include the average value of real or tangible personal property owned or rented and used in a place that is outside the United States. Property owned by the corporation is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate

received by the taxpayer from subrentals. The average value of the taxpayer's property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the taxpayer's property.

(u) The payroll factor for a unitary group is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere by the unitary group during the taxable year. However, with respect to a foreign corporation, the denominator does not include compensation paid in a place that is outside the United States. Compensation is paid in Indiana if:

(1) the individual's service is performed entirely within Indiana;

(2) the individual's service is performed both within and outside Indiana, but the service performed outside Indiana is incidental to the individual's service within Indiana; or

(3) some of the service is performed in Indiana and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in Indiana; or

(B) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual is a resident of Indiana.

(v) The sales factor for a unitary group is a fraction, the numerator of which is the total sales of the taxpayer in Indiana during the taxable year, and the denominator of which is the total sales of the unitary group everywhere during the taxable year. Sales include receipts from intangible property and receipts from the sale or exchange of intangible property. However, with respect to a foreign corporation, the denominator does not include sales made in a place that is outside the United States. Receipts from intangible personal property are derived from sources within Indiana if the receipts from the intangible personal property are attributable to Indiana under section 2.2 of this chapter. Regardless of the f.o.b. point or other conditions of a sale, sales of tangible personal property are in Indiana if:

(1) the property is delivered or shipped to a purchaser that is within Indiana, other than the United States government; or

(2) the property is shipped from an office, a store, a warehouse, a factory, or other place of storage in Indiana and:

(A) the purchaser is the United States government; or

(B) the taxpayer is not taxable in the state of the purchaser.

Gross receipts derived from commercial printing as described in IC 6-2.5-1-10 shall be treated as sales of tangible personal property for purposes of this chapter.

SECTION 71. IC 6-3-2-2.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.4. (a) For purposes of section ~~2(o)~~ **2(p)** of this chapter, a corporation is a foreign operating corporation for a particular taxable year if it has eighty percent (80%) or more of its total business activity occurring outside the United States during the taxable year.

(b) For purposes of determining the amount of a corporation's business activity that occurs within the United States, the department shall determine the sum of that corporation's United States property factor and its United States payroll factor and divide that sum by two (2). If the quotient exceeds two-tenths (0.2), then less than eighty percent (80%) of the corporation's business shall be considered to have occurred outside the United States. If the quotient equals or is less than two-tenths (0.2), then eighty percent (80%) or more of the corporation's business shall be considered to have occurred outside the United States. If a corporation's United States property factor or its United States payroll factor has a denominator of zero (0), then the sum of the two (2) factors shall be divided by one (1) and not by two (2).

(c) The United States property factor of a corporation is a fraction. The numerator of the fraction is the average value of the corporation's real and tangible personal property owned or rented and used in the United States during the taxable year, and the denominator of the fraction is the average value of all the corporation's real and tangible personal property owned or rented and used anywhere in the world during the taxable year. Property owned by the corporation shall be valued at its original cost. Property rented by the corporation shall be valued at eight (8) times the net annual rental rate. The corporation's net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals. The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the department may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the corporation's property.

(d) The United States payroll factor of a corporation is a fraction. The numerator of the fraction is the total compensation to individuals paid in the United States during the taxable year by the corporation, and the denominator of the fraction is the total compensation to individuals paid anywhere in the world during the taxable year by the corporation. Compensation to an individual is paid in the United States if:

(1) the individual's service is performed entirely within the United States;

(2) the individual's service is performed both within and outside the United States, but the service performed outside the United States is incidental to the individual's service within the United States; or

(3) the individual is a resident of the United States, some of the service is performed in the United States, and:

(A) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the United States; or

(B) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is not in a jurisdiction that is outside the United States and that is where some part of the service is performed.

SECTION 72. IC 6-3-2-2.6, AS AMENDED BY P.L.2-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this

chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall

be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue Code; and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and

(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.

(k) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 73. IC 6-3-2-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3.5. (a) For purposes of this section, "public transportation services" means the transportation of individuals for hire.

(b) All fares collected for public transportation services are exempt from the income taxes imposed by this article if the fares are received by a:

(1) public transportation corporation established under IC 36-9-4;

(2) public transit department established by ordinance under IC 36; or

(3) lessee common carrier that provides public transportation services under IC 36.

(c) Fares collected for public transportation services by a private corporation are exempt from income taxes imposed by this article if during the tax year at least eighty percent (80%) of the corporation's total regularly scheduled bus passenger vehicle route miles are within the corporation's designated regional service area. A private corporation's designated regional service area may not be greater than:

(1) the county that the private corporation designates as its principal place of business; and

(2) all counties contiguous to the county designated by the private corporation as its principal place of business.

A private corporation may choose a smaller area as its regional service area.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 74. IC 6-3-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 12. (a) As used in this section, the term "foreign source dividend" means a dividend from a foreign corporation. The term includes any amount that a taxpayer is required to include in its gross income for a taxable year under Section 951 of the Internal Revenue Code, but the term does not include any amount that is treated as a dividend under Section 78 of the Internal Revenue Code.

(b) A corporation that includes any foreign source dividend in its adjusted gross income for a taxable year is entitled to a deduction from that adjusted gross income. The amount of the deduction equals the product of:

(1) the amount of the foreign source dividend included in the corporation's adjusted gross income for the taxable year; multiplied by

(2) the percentage prescribed in subsection (c), (d), or (e), as the case may be.

(c) The percentage referred to in subsection (b)(2) is one hundred

percent (100%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(d) The percentage referred to in subsection (b)(2) is eighty-five percent (85%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing at least fifty percent (50%) but less than eighty percent (80%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(e) The percentage referred to in subsection (b)(2) is fifty percent (50%) if the corporation that includes the foreign source dividend in its adjusted gross income owns stock possessing less than fifty percent (50%) of the total combined voting power of all classes of stock of the foreign corporation from which the dividend is derived.

(f) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 75. IC 6-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 13. (a) As used in this section, "export income" means the gross receipts from the sale, transfer, or exchange of tangible personal property destined for international markets that is:

(1) manufactured at a plant located within a maritime opportunity district established under IC 6-1.1-40; and

(2) shipped through a port operated by the state.

(b) As used in this section, "export sales ratio" means the quotient of:

(1) the taxpayer's export income; divided by

(2) the taxpayer's gross receipts from the sale, transfer, or exchange of tangible personal property, regardless of its destination.

(c) As used in this section, "taxpayer" means a person or corporation that has export income.

(d) The Indiana port commission established by IC 8-10-1 shall notify the department when a maritime opportunity district is established under IC 6-1.1-40. The notice must include:

(1) the resolution passed by the commission to establish the district; and

(2) a list of all taxpayers located in the district.

(e) The port commission shall also notify the department of any

subsequent changes in the list of taxpayers located in the district.

(f) A taxpayer is entitled to a deduction from the taxpayer's adjusted gross income in an amount equal to the lesser of:

(1) the taxpayer's adjusted gross income; or

(2) the product of the export sales ratio multiplied by the percentage set forth in subsection (g).

(g) The percentage to be used in determining the amount a taxpayer is entitled to deduct under this section depends upon the number of years that the taxpayer could have taken a deduction under this section. The percentage to be used in subsection (f) is as follows:

YEAR OF DEDUCTION	PERCENTAGE
1st through 4th	100%
5th	80%
6th	60%
7th	40%
8th	20%
9th and thereafter	0%

(h) The department shall determine for each taxpayer claiming a deduction under this section, the taxpayer's export sales ratio for purposes of IC 6-1.1-40. The department shall certify the amount of the ratio to the department of local government finance.

(i) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 76. IC 6-3-2-20, AS AMENDED BY P.L.211-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 20. (a) The following definitions apply throughout this section:

(1) "Affiliated group" has the meaning provided in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

(2) "Directly related intangible interest expenses" means interest expenses that are paid to, or accrued or incurred as a liability to, a recipient if:

(A) the amounts represent, in the hands of the recipient, income from making one (1) or more loans; and

(B) the funds loaned were originally received by the recipient from the payment of intangible expenses by any of the following:

(i) The taxpayer.

(ii) A member of the same affiliated group as the taxpayer.

(iii) A foreign corporation.

(3) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and would be a member of the same affiliated group as the taxpayer if the corporation were organized under the laws of the United States.

(4) "Intangible expenses" means the following amounts to the extent these amounts are allowed as deductions in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deduction and special deductions for the taxable year:

(A) Expenses, losses, and costs directly for, related to, or in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(B) Royalty, patent, technical, and copyright fees.

(C) Licensing fees.

(D) Other substantially similar expenses and costs.

(5) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and substantially similar types of intangible assets.

(6) "Interest expenses" means amounts that are allowed as deductions under Section 163 of the Internal Revenue Code in determining taxable income under Section 63 of the Internal Revenue Code before the application of any net operating loss deductions and special deductions for the taxable year.

(7) "Makes a disclosure" means a taxpayer provides the following information regarding a transaction with a member of the same affiliated group or a foreign corporation involving an intangible expense and any directly related intangible interest expense with the taxpayer's tax return on the forms prescribed by the department:

(A) The name of the recipient.

(B) The state or country of domicile of the recipient.

(C) The amount paid to the recipient.

(D) A copy of federal Form 851, Affiliation Schedule, as filed with the taxpayer's federal consolidated tax return.

(E) The information needed to determine the taxpayer's status under the exceptions listed in subsection (c).

(8) "Recipient" means:

(A) a member of the same affiliated group as the taxpayer; or

(B) a foreign corporation;

to which is paid an item of income that corresponds to an intangible expense or any directly related intangible interest expense.

(9) "Unrelated party" means a person that, with respect to the taxpayer, is not a member of the same affiliated group or a foreign corporation.

(b) Except as provided in subsection (c), in determining its adjusted gross income under IC 6-3-1-3.5(b), a corporation subject to the tax imposed by IC 6-3-2-1 shall add to its taxable income under Section 63 of the Internal Revenue Code:

(1) intangible expenses; and

(2) any directly related intangible interest expenses;

paid, accrued, or incurred with one (1) or more members of the same affiliated group or with one (1) or more foreign corporations.

(c) The addition of intangible expenses or any directly related intangible interest expenses otherwise required in a taxable year under subsection (b) is not required if one (1) or more of the following apply to the taxable year:

(1) The taxpayer and the recipient are both included in:

(A) the same consolidated tax return filed under IC 6-3-4-14;

(B) the same unitary report (as defined in IC 6-3-4-16(a)); or

(C) in the same combined return filed under ~~IC 6-3-2-2(q)~~ **IC 6-3-4-16(d);**

for the taxable year.

(2) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the item of income corresponding to the intangible expenses and any directly related intangible interest expenses was included within the recipient's income that is subject to tax in:

(i) a state or possession of the United States; or

(ii) a country other than the United States;

that is the recipient's commercial domicile and that imposes a net income tax, a franchise tax measured, in whole or in part, by net income, or a value added tax;

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient was made at a commercially

reasonable rate and at terms comparable to an arm's length transaction; and

(C) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(3) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient regularly engages in transactions involving intangible property with one (1) or more unrelated parties on terms substantially similar to those of the subject transaction; and

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(4) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the payment was received from a person or entity that is an unrelated party, and on behalf of that unrelated party, paid that amount to the recipient in an arm's length transaction; and

(B) the transaction giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(5) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient paid, accrued, or incurred a liability to an unrelated party during the taxable year for an equal or greater amount that was directly for, related to, or in connection with the same intangible property giving rise to the intangible expenses; and

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose.

(6) The taxpayer makes a disclosure and, at the request of the department, can establish by a preponderance of the evidence that:

(A) the recipient is engaged in:

(i) substantial business activities from the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; or

(ii) other substantial business activities separate and apart from the business activities described in item (i);

as evidenced by the maintenance of a permanent office space and an adequate number of full-time, experienced employees;

(B) the transactions giving rise to the intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient did not have Indiana tax avoidance as a principal purpose; and

(C) the transactions were made at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(7) The taxpayer and the department agree, in writing, to the application or use of an alternative method of allocation or apportionment under section 2(l) or 2(m) of this chapter.

(8) Upon request by the taxpayer, the department determines that the adjustment otherwise required by this section is unreasonable.

(d) For purposes of this section, intangible expenses or directly related intangible interest expenses shall be considered to be at a commercially reasonable rate or at terms comparable to an arm's length transaction if the intangible expenses or directly related intangible interest expenses meet the arm's length standards of United States Treasury Regulation 1.482-1(b).

(e) If intangible expenses or directly related intangible expenses are determined not to be at a commercially reasonable rate or at terms comparable to an arm's length transaction for purposes of this section, the adjustment required by subsection (b) shall be made only to the extent necessary to cause the intangible expenses or directly related intangible interest expenses to be at a commercially reasonable rate and at terms comparable to an arm's length transaction.

(f) For purposes of this section, transactions giving rise to intangible expenses and any directly related intangible interest expenses between the taxpayer and the recipient shall be considered as having Indiana tax avoidance as the principal purpose if:

(1) there is not one (1) or more valid business purposes that independently sustain the transaction notwithstanding any tax benefits associated with the transaction; and

(2) the principal purpose of tax avoidance exceeds any other valid business purpose.

SECTION 77. IC 6-3-2-21.7, AS ADDED BY P.L.223-2007,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 21.7. (a) This section applies to a qualified patent issued to a taxpayer after December 31, 2007.

(b) As used in this section, "invention" has the meaning set forth in 35 U.S.C. 100(a).

(c) As used in this section, "qualified patent" means:

(1) a utility patent issued under 35 U.S.C. 101; or

(2) a plant patent issued under 35 U.S.C. 161;

after December 31, 2007, for an invention resulting from a development process conducted in Indiana. The term does not include a design patent issued under 35 U.S.C. 171.

(d) As used in this section, "qualified taxpayer" means a taxpayer that on the effective filing date of the claimed invention:

(1) is either:

(A) an individual or corporation, if the number of employees of the individual or corporation, including affiliates as specified in 13 CFR 121.103, does not exceed five hundred (500) persons; or

(B) a nonprofit organization or nonprofit corporation as specified in:

(i) 37 CFR 1.27(a)(3)(ii)(A) or 37 CFR 1.27(a)(3)(ii)(B); or

(ii) IC 23-17; and

(2) is domiciled in Indiana.

(e) Subject to subsections (g) and (h), in determining adjusted gross income or taxable income under IC 6-3-1-3.5 or IC 6-5.5-1-2, a qualified taxpayer is entitled to an exemption from taxation under IC 6-3-1 through IC 6-3-7 for the following:

(1) Licensing fees or other income received for the use of a qualified patent.

(2) Royalties received for the infringement of a qualified patent.

(3) Receipts from the sale of a qualified patent.

(4) Subject to subsection (f), income from the taxpayer's own use of the taxpayer's qualified patent to produce the claimed invention.

(f) The exemption provided by subsection (e)(4) may not exceed the fair market value of the licensing fees or other income that would be received by allowing use of the qualified taxpayer's qualified patent by someone other than the taxpayer. The fair market value referred to in this subsection must be determined in each taxable year in which the qualified taxpayer claims an exemption under subsection (e)(4).

(g) The total amount of exemptions claimed under this section by a qualified taxpayer in a taxable year may not exceed five million dollars

($5,000,000).

(h) A taxpayer may not claim an exemption under this section with respect to a particular qualified patent for more than ten (10) taxable years. Subject to the provisions of this section, the following amount of the income, royalties, or receipts described in subsection (e) from a particular qualified patent is exempt:

(1) Fifty percent (50%) for each of the first five (5) taxable years in which the exemption is claimed for the qualified patent.

(2) Forty percent (40%) for the sixth taxable year in which the exemption is claimed for the qualified patent.

(3) Thirty percent (30%) for the seventh taxable year in which the exemption is claimed for the qualified patent.

(4) Twenty percent (20%) for the eighth taxable year in which the exemption is claimed for the qualified patent.

(5) Ten percent (10%) each year for the ninth and tenth taxable year in which the exemption is claimed for the qualified patent.

(6) No exemption under this section for the particular qualified patent after the eleventh taxable year in which the exemption is claimed for the qualified patent.

(i) To receive the exemption provided by this section, a qualified taxpayer must claim the exemption on the qualified taxpayer's annual state tax return or returns in the manner prescribed by the department. The qualified taxpayer shall submit to the department all information that the department determines is necessary for the determination of the exemption provided by this section.

(j) On or before December 1 of each year, the department shall provide an evaluation report to the legislative council, the budget committee, and the Indiana economic development corporation. The evaluation report must contain the following:

(1) The number of taxpayers claiming an exemption under this section.

(2) The sum of all the exemptions claimed under this section.

(3) The North American Industry Classification System code for each taxpayer claiming an exemption under this section.

(4) Any other information the department considers appropriate, including the number of qualified patents for which an exemption was claimed under this section.

The report required under this subsection must be in an electronic format under IC 5-14-6.

(k) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee

designated by the council under IC 2-5-1.1-6.1.

SECTION 78. IC 6-3-3-10, AS AMENDED BY P.L.4-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

(1) has the individual's principal place of residence in the enterprise zone in which the individual is employed;

(2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;

(3) performs at least fifty percent (50%) of the individual's services for the taxpayer during the taxable year in the enterprise zone; and

(4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

(1) For a taxpayer's taxable year other than the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;

(2) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and

(3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the

taxable year; or

(2) one thousand five hundred dollars ($1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be

applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

(i) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 79. IC 6-3-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 16. (a) As used in this section, "unitary report" means a schedule of a corporate income tax return that details business income or loss for a unitary business for a taxable year.**

(b) Except as provided in subsections (c) and (d) and IC 6-3-4-14, for each unitary business in which a corporation cooperates as a member of a unitary group during a taxable year, the corporation shall file a unitary report with the corporation's annual return for the taxable year on forms and in the manner prescribed by the department.

(c) The members of a unitary group that conduct a unitary business may annually elect to have one (1) member of the unitary group file the unitary report for the unitary business for the taxable year. The member of the unitary group designated to file the unitary report under this subsection shall communicate the following information from the unitary report to each member of the unitary group:

(1) the business income of the unitary group with respect to the unitary business that is derived from sources within the United States;

(2) the member's share of the business income of the unitary business that is derived from sources within Indiana as determined under IC 6-3-2-2(r);

(3) the member's apportionment factor associated with the amount of business income described in subdivision (2) as determined under IC 6-3-2-2(s); and

(4) any other information required by the department.

(d) One (1) or more taxpayers may petition the department for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year. A taxpayer filing a combined income tax return must petition the department within thirty (30) days after the end of the taxpayer's taxable year to discontinue filing a combined income tax return.

SECTION 80. IC 6-3.1-2-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 81. IC 6-3.1-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 3 of this chapter.

SECTION 82. IC 6-3.1-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 83. IC 6-3.1-7-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 8. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 3 of this chapter.

SECTION 84. IC 6-3.1-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 85. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 10. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 7 of this chapter.

SECTION 86. IC 6-3.1-11-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 24. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 17 of this chapter.

SECTION 87. IC 6-3.1-11.5-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 27. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 19 of this chapter.

SECTION 88. IC 6-3.1-11.6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 15. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 11 of this chapter.

SECTION 89. IC 6-3.1-13-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 28. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to claim a tax credit under an agreement entered into in a taxable year that begins before January 1, 2010, under section 13 of this chapter.

SECTION 90. IC 6-3.1-13.5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 14. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to:

(1) carry forward the excess; or

(2) claim a divided portion;

of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 9 of this chapter.

SECTION 91. IC 6-3.1-14-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 9. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 5 of this chapter.

SECTION 92. IC 6-3.1-15-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 18. This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 93. IC 6-3.1-17-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 10. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry

forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 6 of this chapter.

SECTION 94. IC 6-3.1-19-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 4 of this chapter.

SECTION 95. IC 6-3.1-24-9, AS AMENDED BY P.L.211-2007, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 9. ~~(a)~~ The total amount of tax credits that may be allowed under this chapter in a particular calendar year for qualified investment capital provided during that calendar year may not exceed twelve million five hundred thousand dollars ($12,500,000). The Indiana economic development corporation may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding twelve million five hundred thousand dollars ($12,500,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the Indiana economic development corporation may certify under this chapter.

~~(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2012. However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2012, an unused tax credit attributable to an investment occurring before January 1, 2013.~~

SECTION 96. IC 6-3.1-24-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 14. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 12 of this chapter.

SECTION 97. IC 6-3.1-25.2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 11. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 8 of this chapter.

SECTION 98. IC 6-3.1-26-26, AS AMENDED BY P.L.137-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 26. (a) This chapter applies to taxable years beginning after December 31, 2003.

(b) This chapter:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

~~(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, 2011. However,~~ **(c)** This section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2012, forward to a taxable year beginning after December 31, 2011, in the manner provided by section 15 of this chapter.

SECTION 99. IC 6-3.1-27-10, AS AMENDED BY P.L.122-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 10. (a) A taxpayer that:

(1) is a dealer; and

(2) distributes at retail blended biodiesel in a taxable year;

is entitled to a credit against the taxpayer's state tax liability.

(b) The amount of the credit allowed under this section is the product of:

(1) one cent ($0.01); multiplied by

(2) the total number of gallons of blended biodiesel distributed at retail by the taxpayer in a taxable year.

(c) The total amount of credits allowed under this section may not exceed one million dollars ($1,000,000) for all taxpayers and all taxable years.

~~(d) A credit under this section may not be taken for blended biodiesel distributed at retail after December 31, 2010.~~

SECTION 100. IC 6-3.1-27-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JANUARY 1, 2009]: **Sec. 14. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 12 of this chapter.

SECTION 101. IC 6-3.1-28-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 12. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 9 of this chapter.

SECTION 102. IC 6-3.1-29-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 22. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to claim a divided part of a tax credit awarded under chapter 15 of this chapter for a taxable year that begins before January 1, 2010, in the manner provided in chapter 16 of this chapter.

SECTION 103. IC 6-3.1-30-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 14. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 11 of this chapter.

SECTION 104. IC 6-3.1-31-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 14. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry

forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 10 of this chapter.

SECTION 105. IC 6-3.1-31.2-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 11. (a) This chapter:**

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

(b) This section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for a taxable year that begins before January 1, 2010, under section 8 of this chapter.

SECTION 106. IC 6-3.1-31.9-23, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 23. (a) This chapter applies to taxable years beginning after December 31, 2006.

(b) This chapter:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

~~(b) Notwithstanding the other provisions of this chapter, the corporation may not approve a credit for a qualified investment made after December 31, 2012. However,~~ **(c)** This section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2012, forward to a taxable year beginning after December 31, 2011, in the manner provided by section 13 of this chapter.

SECTION 107. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying eight and one-half percent (8.5%) times the remainder of:

(1) the taxpayer's apportioned income; minus

(2) **for a taxable year beginning before January 1, 2010,** the taxpayer's deductible Indiana net operating losses as determined under this section; minus

(3) **for a taxable year beginning before January 1, 2010,** the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989,

multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

(1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and

(2) attributable to Indiana.

(c) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

(1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

(2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(d) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

(1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:

(A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by

(B) the receipts of all taxpayer members of the unitary group attributable to Indiana.

(2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

(e) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 108. IC 6-6-1.1-301 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 301. **(a)** The following transactions are exempt from the gasoline tax:

(1) Gasoline exported from Indiana to another state, territory, or foreign country.

(2) Gasoline sold to the United States or an agency or instrumentality thereof.

(3) Gasoline sold to a post exchange or other concessionaire on a federal reservation within Indiana; however, the post exchange or concessionaire shall collect, report, and pay to the administrator any tax permitted by federal law on gasoline sold.

(4) **This subdivision does not apply after December 31, 2009.** Gasoline used by a licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon the public highways.

(5) **This subdivision does not apply after December 31, 2009.** Gasoline received by a licensed distributor and thereafter lost or destroyed, except by evaporation, shrinkage, or unknown cause, while the distributor is still the owner.

(b) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 109. IC 6-6-1.1-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 302. **(a)** The following persons may apply to the administrator for an exemption permit:

(1) A person who operates an airport where he sells gasoline for the exclusive purpose of propelling aircraft engines or motors.

(2) A person engaged at an airport in the business of selling gasoline for exclusive use in aircraft engines or motors.

(3) A person who operates a marine facility, except a taxable marine facility, and who sells gasoline at that facility for the exclusive purpose of propelling motorboat engines.

Such a person may apply for an exemption permit whether or not he is a licensed distributor.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 110. IC 6-6-1.1-705 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 705. (a) If a monthly report is filed and the amount due is remitted at or before the time required by this chapter, a distributor is entitled to a deduction equal to one and six-tenths percent (1.6%) of the remainder of:

(1) the number of invoiced gallons of gasoline ~~he~~ **the distributor** received in Indiana during the preceding calendar month; minus

(2) the deductions claimed by the distributor under sections 701 through 704 of this chapter.

This deduction is a flat allowance to cover evaporation, shrinkage, losses (except losses covered by section 301(5) of this chapter), and the distributor's expenses in collecting and timely remitting the tax imposed by this chapter.

(b) If a monthly report is filed or the amount due is remitted later than the time required under this chapter, the distributor shall pay to the administrator all of the gasoline tax the distributor received from the sale of gasoline covered by the late report, reduced by payments made under IC 6-8.1-8-1.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 111. IC 6-6-1.1-901 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 901. **(a)** A person, except a distributor, who has purchased gasoline in Indiana and has paid the tax imposed on it by this chapter is entitled to a refund (without interest) of the amount of tax paid on gasoline in excess of one hundred (100) gallons which is lost or destroyed, except by evaporation, shrinkage, or unknown cause, while ~~he~~ **the person** owns it. To obtain the refund, the person:

(1) must, within five (5) days after the loss or destruction is discovered, notify the administrator in writing of the amount of gasoline lost or destroyed; and

(2) must, within sixty (60) days after notice is given, file with the administrator an affidavit that is sworn to by the person having custody of the gasoline at the time of loss or destruction and that sets forth in full the circumstances and amount of the loss or destruction and any other information the administrator may require.

(b) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 112. IC 6-6-1.1-902 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 902. (a) A local transit system is entitled to a refund of tax paid on gasoline used:

(1) for transporting persons for compensation by means of a

motor vehicle or trackless trolley; or

(2) in a maintenance or an administrative vehicle that is used by the local transit system to support the transit service.

(b) The claim for refund must contain the following:

(1) A quarterly operating statement.

(2) A current balance sheet.

(3) A schedule of all salaries in excess of ten thousand dollars ($10,000) per annum paid to any officer or employee.

(c) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the refund application until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 113. IC 6-6-1.1-902.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 902.5. (a) A rural transit system is entitled to a refund of tax paid on gasoline used for transporting persons for compensation by means of a motor vehicle or trackless trolley. However, the transporting must be done:

(1) within a service area that is not larger than the rural transit system service area and the counties contiguous to that rural transit system service area; and

(2) under a written contract between the rural transit system and the county providers within the service area that meets the requirements prescribed by the department.

(b) The claim for refund must contain the following:

(1) A quarterly operating statement.

(2) A current balance sheet.

(3) A schedule of all salaries that exceed ten thousand dollars ($10,000) per year paid to any officer or employee.

(c) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by section 904.1 of this chapter, the department shall pay interest at the rate established by IC 6-8.1-10-1(c) computed from the date of filing of the refund application until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 114. IC 6-6-1.1-903, AS AMENDED BY P.L.210-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 903. (a) A person is entitled to a refund of gasoline tax paid on gasoline purchased or used for the following purposes:

(1) Operating stationary gas engines.

(2) Operating equipment mounted on motor vehicles, whether or not operated by the engine propelling the motor vehicle.

(3) Operating a tractor used for agricultural purposes.

(3.1) Operating implements of agriculture (as defined in IC 9-13-2-77).

(4) Operating motorboats or aircraft.

(5) Cleaning or dyeing.

(6) Other commercial use, except propelling motor vehicles operated in whole or in part on an Indiana public highway.

(7) Operating a taxicab (as defined in section 103 of this chapter).

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required by the department until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 115. IC 6-6-2.5-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 30. (a) The following are exempt from the special fuel tax:

(1) Special fuel sold by a supplier to a licensed exporter for export from Indiana to another state or country to which the exporter is specifically licensed to export exports by a supplier, or exports for which the destination state special fuel tax has been paid to the supplier and proof of export is available in the form of a destination state bill of lading.

(2) Special fuel sold to the United States or an agency or

instrumentality thereof.

(3) Special fuel sold to a post exchange or other concessionaire on a federal reservation within Indiana. However, the post exchange or concessionaire shall collect, report, and pay quarterly to the department any tax permitted by federal law on special fuel sold.

(4) Special fuel sold to a public transportation corporation established under IC 36-9-4 and used for the transportation of persons for compensation within the territory of the corporation.

(5) Special fuel sold to a public transit department of a municipality and used for the transportation of persons for compensation within a service area, no part of which is more than five (5) miles outside the corporate limits of the municipality.

(6) **This subdivision does not apply after December 31, 2009.** Special fuel sold to a common carrier of passengers, including a business operating a taxicab (as defined in IC 6-6-1.1-103(l)) and used by the carrier to transport passengers within a service area that is not larger than one (1) county, and counties contiguous to that county.

(7) **This subdivision does not apply after December 31, 2009.** The portion of special fuel determined by the commissioner to have been used to operate equipment attached to a motor vehicle, if the special fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment.

(8) **This subdivision does not apply after December 31, 2009.** Special fuel used for nonhighway purposes, used as heating oil, or in trains.

(9) Special fuel sold by a supplier to an unlicensed person for export from Indiana to another state and the special fuel has ~~been~~ **had** dye ~~addityzed~~ **added** in accordance with section 31 of this chapter.

(10) Sales of transmix between licensed suppliers.

(b) The exemption from tax provided under subsection (a)(4) through (a)(7) shall be applied for through the refund procedures established in section 32 of this chapter.

(c) The department shall provide information to licensed suppliers of the destination state or states to which exporters are authorized to export.

(d) Subject to gallonage limits and other conditions established by the department, the department shall provide for refund of the tax imposed by this chapter to a wholesale distributor exporting undyed special fuel out of a bulk plant in this state in a vehicle capable of

carrying not more than five thousand four hundred (5,400) gallons if the destination of that vehicle does not exceed twenty-five (25) miles from the border of Indiana.

(e) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 116. IC 6-6-2.5-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 32.5. (a) A person that pays the tax imposed by this chapter on the use of special fuel in the operation of an intercity bus (as defined in IC 9-13-2-83) is entitled to a refund of the tax without interest if the person has:

(1) consumed the special fuel outside Indiana;

(2) paid a special fuel tax or highway use tax for the special fuel in at least one (1) state or other jurisdiction outside Indiana; and

(3) complied with subsection (b).

(b) To qualify for a refund under this section, a special fuel user shall submit to the department a claim for a refund, in the form prescribed by the department, that includes the following information:

(1) Any evidence requested by the department of the following:

(A) Payment of the tax imposed by this chapter.

(B) Payment of taxes in another state or jurisdiction outside Indiana.

(2) Any other information reasonably requested by the department.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 117. IC 6-6-2.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 35. (a) The tax on special fuel received by a licensed supplier in Indiana that is imposed by section 28 of this chapter shall be collected and remitted to the state by the supplier who receives taxable gallons in accordance with subsection (b).

(b) On or before the fifteenth day of each month, licensed suppliers and licensed permissive suppliers shall make an estimated payment of all taxes imposed on transactions that occurred during the previous calendar month equal to:

(1) one hundred percent (100%) of the amount remitted by the licensed supplier or licensed permissive supplier for the month preceding the previous calendar month; or

(2) ninety-five percent (95%) of the amount actually due and payable by the licensed supplier or licensed permissive supplier

for the previous month.

Any remaining tax imposed on transactions occurring during a calendar month shall be due and payable on or before the twentieth day of the following month, except as provided in subsection (i). Underpayments of estimated taxes due and owing the department are not subject to a penalty under section 63(a) of this chapter.

(c) A supplier who sells special fuel shall collect from the purchaser the special fuel tax imposed under section 28 of this chapter. At the election of an eligible purchaser, the seller shall not require a payment of special fuel tax from the purchaser at a time that is earlier than the date on which the tax is required to be remitted by the supplier under subsection (b). This election shall be subject to a condition that the eligible purchaser's remittances of all amounts of tax due the seller shall be paid by electronic funds transfer on or before the due date of the remittance by the supplier to the department, and the eligible purchaser's election under this subsection may be terminated by the seller if the eligible purchaser does not make timely payments to the seller as required by this subsection.

(d) As used in this section, "eligible purchaser" means a person who has authority from the department to make the election under subsection (c) and includes every person who is licensed and in good standing as a special fuel dealer or special fuel user, as determined by the department, as of July 1, 1993, who has purchased a minimum of two hundred forty thousand (240,000) taxable gallons of special fuel each year in the preceding two (2) years, or who otherwise meets the financial responsibility and bonding requirements of subsection (e).

(e) Each purchaser that desires to make an election under subsection (c) shall present evidence of the purchaser's eligible purchaser status to the purchaser's seller. The department shall determine whether the purchaser is an eligible purchaser. The department may require a purchaser that pays the tax to a supplier to file with the department a surety bond payable to the state, upon which the purchaser is the obligor or other financial security, in an amount satisfactory to the department. The department may require that the bond indemnify the department against bad debt deductions claimed by the supplier under subsection (g).

(f) The department shall have the authority to rescind a purchaser's eligibility and election to defer special fuel tax remittances upon a showing of good cause, including failure to make timely payment under subsection (c), by sending written notice to all suppliers and eligible purchasers. The department may require further assurance of the purchaser's financial responsibility, or may increase the bond

requirement for that purchaser, or any other action that the department may require to ensure remittance of the special fuel tax.

(g) **This subsection does not apply after December 31, 2009.** In computing the amount of special fuel tax due, the supplier and permissive supplier shall be entitled to a deduction from the tax payable the amount of tax paid by the supplier that has become uncollectible from a purchaser. The department shall adopt rules establishing the evidence a supplier must provide to receive the deduction. The deduction shall be claimed on the first return following the date of the failure of the purchaser if the payment remains unpaid as of the filing date of that return or the deduction shall be disallowed. The claim shall identify the defaulting purchaser and any tax liability that remains unpaid. If a purchaser fails to make a timely payment of the amount of tax due, the supplier's deduction shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser for a period of ten (10) days following the date of failure to pay. No additional deduction shall be allowed until the department has authorized the purchaser to make a new election under subsection (e). The department may require the deduction to be reported in the same manner as prescribed in Section 166 of the Internal Revenue Code.

(h) The supplier and each reseller of special fuel is considered to be a collection agent for this state with respect to that special fuel tax, which shall be set out on all invoices and billings as a separate line item.

(i) Except as provided in subsection (e), the tax imposed by section 28 of this chapter on special fuel imported from another state shall be paid by the licensed importer who has imported the nonexempt special fuel not later than three (3) business days after the earlier of:

(1) the time that the nonexempt special fuel entered into Indiana; or

(2) the time that a valid import verification number was assigned by the department under rules and procedures adopted by the department.

However, if the importer and the importer's reseller have previously entered into a tax precollection agreement as described in subsection (j), and the agreement remains in effect, the supplier with whom the agreement has been made shall become jointly liable with the importer for the tax and shall remit the tax to the department on behalf of the importer. This subsection does not apply to an importer with respect to imports in vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(j) The department, a licensed importer, the reseller to a licensed

importer, and a licensed supplier or permissive supplier may jointly enter into an agreement for the licensed supplier or permissive supplier to precollect and remit the tax imposed by this chapter with respect to special fuel imported from a terminal outside of Indiana in the same manner and at the same time as the tax would arise and be paid under this chapter if the special fuel had been received by the licensed supplier or permissive supplier at a terminal in Indiana. If the supplier is also the importer, the agreement shall be entered into between the supplier and the department. However, any licensed supplier or permissive supplier may make an election with the department to treat all out-of-state terminal removals with an Indiana destination as shown on the terminal-issued shipping paper as if the removals were received by the supplier in Indiana pursuant to section 28 of this chapter and subsection (a), for all purposes. In this case, the election and notice of the election to a supplier's customers shall operate instead of a three (3) party precollection agreement. The department may impose requirements reasonably necessary for the enforcement of this subsection.

(k) Each licensed importer who is liable for the tax imposed by this chapter on nonexempt special fuel imported by a fuel transport truck having less than five thousand four hundred (5,400) gallons capacity, for which tax has not previously been paid to a supplier, shall remit the special fuel tax for the preceding month's import activities with the importer's monthly report of activities. A licensed importer shall be allowed to retain two-thirds (2/3) of the collection allowance provided for in section 37(a) of this chapter for the tax timely remitted by the importer directly to the state, subject to the same pass through provided for in section 37(a) of this chapter.

(l) A licensed importer shall be allowed to retain two-thirds (2/3) of the amount allowed in section 37(a) of this chapter of the tax timely remitted by the licensed importer directly to the state, subject to the same pass through provided for in section 37(a) of this chapter.

(m) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 118. IC 6-6-2.5-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 37. (a) Every supplier and permissive supplier who properly remits tax under this chapter shall be allowed to retain one and six-tenths percent (1.6%) of the tax to cover the costs of collecting, reporting, and timely remitting the tax imposed by this chapter.

(b) The amount that the supplier is permitted to retain under subsection (a) shall be distributed by the supplier as follows:

(1) One-third (1/3) retained by the supplier.

(2) Two-thirds (2/3) to the wholesale distributor. If the special fuel is resold by that wholesale distributor or another wholesale distributor to an eligible purchaser, the last wholesale distributor in the distribution process shall pass on one-half (1/2) of the two-thirds (2/3) to the eligible purchaser.

(3) If an eligible purchaser is the direct purchaser from a supplier, and that retail dealer or bulk end user is responsible for shipping the product, then the supplier shall pass through two-thirds (2/3) to the retail dealer or bulk end user. If the supplier is responsible for shipping the product, the supplier shall retain two-thirds (2/3) and pass through one-third (1/3) to the eligible purchaser.

(c) If a monthly report is filed or the amount due is remitted later than the time required by this chapter, the supplier shall pay to the department all of the special fuel tax the dealer collected from the sale of special fuel during the reporting period.

(d) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 119. IC 6-6-4.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. (a) A tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this tax is the same rate per gallon as the rate per gallon at which special fuel is taxed under IC 6-6-2.5. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

(b) The amount of motor fuel consumed by a carrier in its operations on highways in Indiana is the total amount of motor fuel consumed in its entire operations within and without Indiana, multiplied by a fraction. The numerator of the fraction is the total number of miles traveled on highways in Indiana, and the denominator of the fraction is the total number of miles traveled within and without Indiana.

(c) The amount of tax that a carrier shall pay for a particular quarter under this section equals the product of the tax rate in effect for that quarter, multiplied by the amount of motor fuel consumed by the carrier in its operation on highways in Indiana and upon which the carrier has not paid tax imposed under IC 6-6-1.1 or IC 6-6-2.5.

(d) **This subsection does not apply after December 31, 2009.** Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a

motor vehicle having a common reservoir for locomotion on the highway and the operation of the equipment, as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

(e) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 120. IC 6-6-4.1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4.5. (a) A surcharge tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate of this surcharge tax is eleven cents ($0.11) per gallon. The tax shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

(b) The amount of motor fuel consumed by a carrier in its operations on highways in Indiana is the total amount of motor fuel consumed in its entire operations within and without Indiana, multiplied by a fraction. The numerator of the fraction is the total number of miles traveled on highways in Indiana, and the denominator of the fraction is the total number of miles traveled within and without Indiana.

(c) The amount of tax that a carrier shall pay for a particular quarter under this section equals the product of the tax rate in effect for that quarter, multiplied by the amount of motor fuel consumed by the carrier in its operation on highways in Indiana.

(d) **This subsection does not apply after December 31, 2009.** Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a motor vehicle having a common reservoir for locomotion on the highway and the operation of this equipment as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

(e) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 121. IC 6-6-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) The rental of a truck is exempt from the auto rental excise tax if the declared gross weight of the truck being rented exceeds eleven thousand (11,000) pounds.

(b) The rental of a passenger motor vehicle or truck by a funeral director licensed under IC 25-15 is exempt from the auto rental excise

tax if the rental is part of the services provided by the director for a funeral.

(c) This section:

(1) expires December 31, 2009; and

(2) shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 122. IC 6-6-9.7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) **This subsection does not apply after December 31, 2009.** The rental of a truck is exempt from the county supplemental auto rental excise tax if the declared gross weight of the rented truck exceeds eleven thousand (11,000) pounds.

(b) **This subsection does not apply after December 31, 2009.** The rental of a passenger motor vehicle or truck by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the director for a funeral.

(c) The temporary rental of a passenger motor vehicle or truck is exempt from the county supplemental auto rental excise tax if the rental is:

(1) made or reimbursed under a contract or agreement between a provider and person given for consideration over and above the lease or purchase price of a motor vehicle that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;

(2) made or reimbursed under a contract for mechanical breakdown insurance;

(3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to the person after the person's vehicle is damaged or destroyed in a collision; or

(4) otherwise provided to a person as a replacement vehicle:

(A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or

(B) until the person permanently replaces a vehicle that has been destroyed.

(d) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 123. IC 22-12-6-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) All fire insurance companies licensed to transact business in Indiana shall pay to the treasurer of state before March 2 of each year an amount equal to one-half of one percent (0.5%) of the gross premiums of each company, received on fire risks written in Indiana, after deducting:

(1) return premiums; and

(2) before January 1, 2010, considerations received from reinsurance;

as reported by them to the auditor of state for the payment of premium taxes as provided by statute.

(b) Annual payment under subsection (a) by these companies is in addition to all taxes and license fees required by statute to be paid by fire insurance companies doing business in Indiana.

(c) If any fire insurance company licensed, authorized, or incorporated to transact business in Indiana fails to pay into the state treasury on June 30 and December 31 of each year the taxes required by this section, the department of insurance shall revoke its license and may not license it to do business in Indiana for two (2) years after the date its license is revoked under this subsection.

(d) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 124. IC 27-1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

(1) **before January 1, 2010,** considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the

cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section, it shall be taxed without regard to this section.

(c) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to the excess, if any, of the gross premiums over the allowable deductions multiplied by the following rate for the year that the report covers:

(1) For 2000, two percent (2%).

(2) For 2001, one and nine-tenths percent (1.9%).

(3) For 2002, one and eight-tenths percent (1.8%).

(4) For 2003, one and seven-tenths percent (1.7%).

(5) For 2004, one and five-tenths percent (1.5%).

(6) For 2005 and thereafter, one and three-tenths percent (1.3%).

(d) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(e) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(f) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

(g) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

(1) twenty-five percent (25%) of the total tax paid during the

preceding calendar year; or

(2) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(h) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(i) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars ($100) for each additional day such report and payment shall be delayed, not to exceed a maximum penalty of ten thousand dollars ($10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the commissioner.

(j) This section shall be reviewed by the legislative council or a committee designated by the council under IC 2-5-1.1-6.1.

SECTION 125. [EFFECTIVE JANUARY 1, 2009] **(a) The following, all as amended by this act, apply only to taxable years beginning after December 31, 2008:**

(1) IC 6-3-1-24.

(2) IC 6-3-2-2.

(3) IC 6-3-2-2.4.

(4) IC 6-3-2-20.

(b) The following, all as added by this act, apply only to taxable years beginning after December 31, 2008:

(1) IC 6-3-1-35.

(2) IC 6-3-1-36.

(3) IC 6-3-4-16.